

**STATE OF MICHIGAN  
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

**Before the Director of the Department of Insurance and Financial Services**

In the matter of:

**Department of Insurance and Financial Services**

**Enforcement Case No. 12-11574**

**Agency No. 12-036-L**

Petitioner,

v

**Erica Amy Kaznowski**

System ID No. 0292308

Respondent.

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Issued and entered  
on May 10, 2013  
by **Randall S. Gregg**  
Deputy Director

**FINAL ORDER**

**I. Background**

Erica Amy Kaznowski (Respondent) is a licensed resident producer. The Department of Insurance and Financial Services (DIFS) received information that Respondent misappropriated premium money from 23 consumers. After investigation and verification of the information, on August 16, 2012, DIFS issued a Notice of Opportunity to Show Compliance alleging that Respondent had provided justification for revocation of licensure and other sanctions pursuant to Sections 1239(1) and 1244(1)(a-c) of the Michigan Insurance Code (Code), MCL 500.1239(1) and 500.1244(1)(a-c). Respondent failed to reply to the Notice.

On October 19, 2012, DIFS issued an Administrative Complaint and Order for Hearing which was served upon Respondent. The Order for Hearing required Respondent to take one of the following actions within 21 days: (1) agree to a resolution of the case, (2) file a response to the allegations with a statement that Respondent planned to attend the hearing, or (3) request an adjournment. Respondent failed to take any of these actions.

On December 6, 2012, DIFS staff filed a Motion for Final Decision. Respondent did not file a reply to the motion. Given Respondent's failure to respond, Petitioner's motion is granted. The Administrative Complaint, being unchallenged, is accepted as true. Based upon the

Administrative Complaint, the Director makes the following Findings of Fact and Conclusions of Law.

## **II. Findings of Fact and Conclusions of Law**

1. Pursuant to Executive Order 2013-1, all authority, powers, duties, functions, and responsibilities of the Commissioner of the Office of Financial and Insurance Regulation (Commissioner) have been transferred to the Director of the Department of Insurance and Financial Services (Director).
2. At all relevant times, Respondent was a licensed insurance producer.
3. Respondent is the manager and authorized agent for Cedarberg Holding L.C., which includes Stapish Cedarberg Funeral Home East and West (S-C).

### **COUNT 1**

4. On or about February 22, 2008, an employee of S-C completed an enrollment form for a preneed funeral policy underwritten by National Guardian Life Insurance Company (NGL) for SB, a customer.
5. The customer wrote a check to S-C for the policy in the amount of \$7,359.20 and this money was deposited into an S-C bank account.
6. As of January 1, 2012, NGL had not received the application or the premium money for the policy.

### **COUNT 2**

7. On or about June 28, 2007, an employee of S-C completed an enrollment form for a preneed funeral policy underwritten by NGL for CC, a customer.
8. The customer wrote checks to S-C for the policy in the amount of \$6,617.70 and this money was deposited into an S-C bank account.
9. As of January 1, 2012, NGL had not received the application or the premium money for the policy.

### **COUNT 3**

10. On or about April 9, 2007, an employee of S-C completed an enrollment form for a preneed funeral policy underwritten by NGL for PC, a customer.

11. The customer wrote checks to S-C for the policy in the amount of \$1,619.10 and this money was deposited into an S-C bank account.
12. As of January 1, 2012, NGL had not received the application or the premium money for the policy.

**COUNT 4**

13. On or about July 18, 2006, an employee of S-C completed an enrollment form for a preneed funeral policy underwritten by NGL for FC, a customer.
14. The customer wrote a check to S-C for the policy in the amount of \$5,611.95 and this money was deposited into an S-C bank account.
15. As of January 1, 2012, NGL had not received the application or the premium money for the policy.

**COUNT 5**

16. On or about June 25, 2007, an employee of S-C completed an enrollment form for a preneed funeral policy underwritten by NGL for RD and PD, customers.
17. The customers wrote a check to S-C for the policy in the amount of \$8,261.20 and this money was deposited into an S-C bank account.
18. As of January 1, 2012, NGL had not received the application or the premium money for the policy.

**COUNT 6**

19. On or about September 9, 2009, an employee of S-C completed an enrollment form for a preneed funeral policy underwritten by NGL for AD, a customer.
20. The customer wrote a check to S-C for the policy in the amount of \$4,513.50 and this money was deposited into an S-C bank account.
21. As of January 1, 2012, NGL had not received the application or the premium money for the policy.

**COUNT 7**

22. On or about October 5, 2007, an employee of S-C completed an enrollment form for a preneed funeral policy underwritten by NGL for SD, a customer.

23. The customer wrote a check to S-C for the policy in the amount of \$7,692.20 and this money was deposited into an S-C bank account.
24. As of January 1, 2012, NGL had not received the application or the premium money for the policy.

**COUNT 8**

25. On or about September 5, 2007, an employee of S-C completed an enrollment form for a preneed funeral policy underwritten by NGL for RD, a customer.
26. The customer wrote a check to S-C for the policy in the amount of \$1,592.10 and this money was deposited into an S-C bank account.
27. As of January 1, 2012, NGL had not received the application or the premium money for the policy.

**COUNT 9**

28. On or about January 12, 2007, an employee of S-C completed an enrollment form for a preneed funeral policy underwritten by NGL for JD, a customer.
29. The customer wrote a check to S-C for the policy in the amount of \$9,063.90 and this money was deposited into an S-C bank account.
30. As of January 1, 2012, NGL had not received the application or the premium money for the policy.

**COUNT 10**

31. On or about February 27, 2007, an employee of S-C completed an enrollment form for a preneed funeral policy underwritten by NGL for SG, a customer.
32. The customer wrote a check to S-C for the policy in the amount of \$6,867.90 and this money was deposited into an S-C bank account.
33. As of January 1, 2012, NGL had not received the application or the premium money for the policy.

**COUNT 11**

34. On or about July 27, 2006, an employee of S-C completed an enrollment form for a preneed funeral policy underwritten by NGL for FH, a customer.

- 35. The customer wrote checks to S-C for the policy in the amount of \$10,069.60 and this money was deposited into an S-C bank account.
- 36. As of January 1, 2012, NGL had not received the application or the premium money for the policy.

**COUNT 12**

- 37. On or about June 24, 2009, an employee of S-C completed an enrollment form for a preneed funeral policy underwritten by NGL for LL, a customer.
- 38. The customer wrote a check to S-C for the policy in the amount of \$666.23 and this money was deposited into an S-C bank account.
- 39. As of January 1, 2012, NGL had not received the application or the premium money for the policy.

**COUNT 13**

- 40. On or about June 23, 2006, an employee of S-C completed an enrollment form for a preneed funeral policy underwritten by NGL for JM, a customer.
- 41. The customer wrote a check to S-C for the policy in the amount of \$11,204.30 and this money was deposited into an S-C bank account.
- 42. As of January 1, 2012, NGL had not received the application or the premium money for the policy.

**COUNT 14**

- 43. On or about October 2, 2007, an employee of S-C completed an enrollment form for a preneed funeral policy underwritten by NGL for RM and LM, customers.
- 44. The customers paid S-C for the policy in the amount of \$14,509.80 via credit card and this money was deposited into an S-C bank account.
- 45. As of January 1, 2012, NGL had not received the application or the premium money for the policy.

**COUNT 15**

- 46. On or about September 14, 2005, an employee of S-C completed an enrollment form for a preneed funeral policy underwritten by Fortis Family (Fortis) for TM and JM, customers.

- 47. The customers paid S-C for the policy in the amount of \$5,383.50 via credit card and this money was deposited into an S-C bank account.
- 48. As of January 1, 2012, Fortis had not received the application or the premium money for the policy.

**COUNT 16**

- 49. On or about May 18, 2005, an employee of S-C completed an enrollment form for a preneed funeral policy underwritten by Fortis for GM, a customer.
- 50. The customer wrote a check to S-C for the policy in the amount of \$5,000.00 and this money was deposited into an S-C bank account.
- 51. As of January 1, 2012, Fortis had not received the application or the premium money for the policy.

**COUNT 17**

- 52. On or about August 29, 2007, an employee of S-C completed an enrollment form for a preneed funeral policy underwritten by NGL for BP, a customer.
- 53. The customer wrote a check to S-C for the policy in the amount of \$5,652.90 and this money was deposited into an S-C bank account.
- 54. As of January 1, 2012, NGL had not received the application or the premium money for the policy.

**COUNT 18**

- 55. On or about July 18, 2006, an employee of S-C completed an enrollment form for a preneed funeral policy underwritten by NGL for MS, a customer.
- 56. The customer wrote a check to S-C for the policy in the amount of \$5,812.95 and this money was deposited into an S-C bank account.
- 57. As of January 1, 2012, NGL had not received the application or the premium money for the policy.

**COUNT 19**

- 58. On or about June 6, 2008, an employee of S-C completed an enrollment form for a preneed funeral policy underwritten by NGL for ET, a customer.

- 59. The customer wrote a check to S-C for the policy in the amount of \$7,307.40 and this money was deposited into an S-C bank account.
- 60. As of January 1, 2012, NGL had not received the application or the premium money for the policy.

**COUNT 20**

- 61. On or about May 6, 2009, an employee of S-C completed an enrollment form for a preneed funeral policy underwritten by NGL for EVT, a customer.
- 62. The customer wrote a check to S-C for the policy in the amount of \$14,182.40 and this money was deposited into an S-C bank account.
- 63. As of January 1, 2012, NGL had not received the application or the premium money for the policy.

**COUNT 21**

- 64. On or about November 22, 2005, an employee of S-C completed an enrollment form for a preneed funeral policy underwritten by NGL for BJW, a customer.
- 65. The customer wrote a check to S-C for the policy in the amount of \$1,158.35 and this money was deposited into an S-C bank account.
- 66. As of January 1, 2012, NGL had not received the application or the premium money for the policy.

**COUNT 22**

- 67. On or about September 18, 2007, an employee of S-C completed an enrollment form for a preneed funeral policy underwritten by NGL for GC, a customer.
- 68. The customer wrote a check to S-C for the policy in the amount of \$3,802.90 and this money was deposited into an S-C bank account.
- 69. As of January 1, 2012, NGL had not received the application or the premium money for the policy.

**COUNT 23**

- 70. On or about January 26, 2010, an employee of S-C completed an enrollment form for a preneed funeral policy underwritten by NGL for AB, a customer.

71. The customer wrote a check to S-C for the policy in the amount of \$6,617.90 and this money was deposited into an S-C bank account.
72. As of January 1, 2012, NGL had not received the application or the premium money for the policy.
73. Respondent stated to State of Michigan, Department of Licensing and Regulatory Affairs, Bureau of Commercial Services Auditor Tim Teague that she was responsible for \$137,873.63 of insurance premiums which had not been remitted to insurance companies.
73. Respondent stated that she used the insurance premium money in question to pay for funeral home expenses.
74. As a licensed resident producer, Respondent knew or had reason to know that MCL 500.1207(1) provides, in part, that "an agent shall be a fiduciary for all money received or held by the agent in his or her capacity as an agent. Failure by an agent in a timely manner to turn over the money which he or she holds in a fiduciary capacity to the persons to whom they are owed is prima facie evidence of violation of the agent's fiduciary responsibility."
75. As a licensed resident producer, Respondent knew or had reason to know that MCL 500.1239(1) provides, in part:

In addition to any other powers under this act, the commissioner may place on probation, suspend, or revoke an insurance producer's license or may levy a civil fine under section 1244 or any combination of actions, and the commissioner shall refuse to issue a license under section 1205 or 1206a, for any 1 or more of the following causes:

\* \* \*

(d) Improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business.

\* \* \*

(h) Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

76. As a licensed resident producer, Respondent knew or had reason to know that MCL 500.4503 provides, in part:



A fraudulent insurance act includes, but is not limited to, acts or omissions committed by any person who knowingly, and with an intent to injure, defraud, or deceive:

\* \* \*

(g) Diverts, attempts to divert, or conspires to divert funds of an insurer or of other persons in connection with any of the following:

(i) The transaction of insurance or reinsurance.


77. Respondent gave cause for discipline because Respondent's conduct violated the insurance laws of this state; Respondent improperly withheld, misappropriated, or converted money received in the course of doing insurance business; Respondent failed or refused to turn over money held in a fiduciary capacity to the persons to whom they are owed; and Respondent's conduct demonstrates fraudulent, coercive, or dishonest practices and incompetence, untrustworthiness, and financial irresponsibility in the conduct of business in this state.
78. DIFS Staff has made reasonable efforts to serve Respondent and has complied with MCL 500.1238.
79. Respondent has received notice and has been given an opportunity to respond and appear and has not responded or appeared.
80. Respondent is in default and the Petitioner is entitled to have all allegations accepted as true.

### III. Order

Based upon the Respondent's conduct and the applicable law cited above, it is ordered that:

1. Respondent shall cease and desist from violating the Code.
2. Respondent shall immediately cease and desist from engaging in the business of insurance.
3. Respondent's insurance producer license is **REVOKED**.

R. Kevin Clinton, Director  
For the Director:

  
Randall S. Gregg, Deputy Director